

# PATENT COOPERATION TREATY

TRANSLATION

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference

**35269PCT**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/FR2004/050612**

International filing date (day/month/year)

**24.11.2004**

Priority date (day/month/year)

**24.11.2003**

International Patent Classification (IPC) or both national classification and IPC

**B65D51/24, B65D43/02, B65D43/12**

Applicant

**MALEK, Pierre**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

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Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	4-6, 8, 11	YES
	Claims	1-3, 7, 9-10, 12-17	NO
Inventive step (IS)	Claims		YES
	Claims	1-17	NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: US-A-5 525 314

D2: US 2002/053528

D3: US-A-4 615 461

D4: US-A-4 342 403

D5: US-A-5 732 820

D6: WO 03/018420

**Clarity PCT Article 6**

2. Although claims 1 and 12 were drafted in the form of distinct independent claims, it seems that they have the same subject matter and that they only differ from each other by a variation in the definition of the subject matter for which protection is sought.

Consequently, these claims are not concise and therefore do not satisfy the requirements of PCT Article 6.

**Novelty PCT Article 33(2)**

3. The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of **claims 1-3, 7, 9, 10 and 12-17** does not meet

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the requirement of novelty defined in PCT Article 33(2).

3.1 Document D1 describes a tool storing device (10)  
(figures 1-8) comprising:

**claim 1:** - a container (14)

- closing means (12) complementary to said container,  
also being a gripping means .

- closing means comprises a flat horizontal part (12) and  
two vertical planes (20), the said vertical planes (20,  
18) acting as a gripping means and forming with the said  
flat part a means for opening by exerting pressure on the  
said vertical planes

**claim 2:** - the tools are drill bits (31)

**claim 3:** - the flat part (12) is used for expulsion

**claim 7:** - the container (14) comprises at least one  
opening (14')

**claims 12-17:** a box with an opening system

3.2 Document D2 describes a tool storing device (figures  
1-8) comprising:

**claim 1:** - a container (10)

- closing means (20) comprises a flat horizontal part  
(50) and two vertical planes (22) forming with the said  
flat part a means for opening by exerting pressure on the  
said vertical planes

**claims 9-10:** the cover is made of a semi-rigid plastic  
material

**claims 12-17:** a box with an opening system

**Inventive Step PCT Article 33(3)**

4. The present application fails to comply with the

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requirements of PCT Article 33(1) since the subject matter of **claims 4-6, 8 and 11** does not involve an inventive step as defined in PCT Article 33(3). In claims 4-6, 8 and 11, a slight modification of the storing device (sliding device, material, anti-slip agent) described in claim 1 is defined; this modification comes within the scope of the customary practice followed by persons skilled in the art and the advantages thus achieved can readily be foreseen (See Document D3: sliding tongues, Document D4 transparent material, Document D5: anti-slip agent). Consequently, the subject matter of claims 4-6, 8 and 11 does not appear to involve an inventive step.

**Other comments**

5. Contrary to the requirements of PCT Rule 5.1(a)(ii), the relevant prior art disclosed in documents **D1-D2** is not mentioned in the description, nor are these documents identified therein.